

**IN THE UNITED STATES DISTRICT FOR  
THE WESTERN DISTRICT OF PENNSYLVANIA**

KIMBERLY D. MOCNIAK,

Plaintiff,

vs.

TANGER FACTORY OUTLET CENTERS,  
INC., TANGER PROPERTIES LIMITED  
PARTNERSHIP, and TANGER  
MANAGEMENT, LLC

Defendants.

Civil Action  
No. 2:22-cv-379

**JURY TRIAL DEMANDED**

Laura D. Phillips, Esquire  
Pa. I.D. # 202204  
Phillips, Phillips & Smith-Delach, P.C.  
29 East Beau Street  
Washington, PA 15301  
(724)225-9933  
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**COMPLAINT**

Plaintiff, Kimberly D. Mocniak, by and through her attorneys, Phillips, Phillips & Smith-Delach, P.C., hereby files the following Complaint and in support thereof avers as follows:

**PARTIES**

1. Plaintiff, Kimberly D. Mocniak (hereinafter referred to as "Plaintiff") is an adult individual residing at 47 Fairfield Manor, Morgantown, Monongalia County, West Virginia 26505.
2. Defendant, Tanger Factory Outlet Centers, Inc. (hereinafter "Defendant Tanger Factory") is a corporate entity and a citizen of the state of North Carolina with its principal place of business at 3200 Northline Drive, Suite 360, Greensboro, Guilford County, North Carolina.
3. Defendant Tanger Properties Limited Partnership (hereinafter "Defendant Tanger Properties") is a corporate entity and a citizen of the state of North Carolina with its principal place of business at 3200 Northline Drive, Suite 360, Greensboro, Guilford County, North Carolina.

4. Defendant Tanger Management, LLC (hereinafter “Defendant Tanger Management”) is a corporate entity and a citizen of the state of North Carolina with its principal place of business at 3200 Northline Drive, Suite 360, Greensboro, Guilford County, North Carolina.

5. At all times relevant hereto, Defendants Tangor Factory, Tanger Properties, and/or Tanger Management traded and did business in the Commonwealth of Pennsylvania, including but not limited to owning, leasing, controlling, maintaining, and/or operating a retail shopping center at 2200 Tanger Boulevard, Washington, Washington County, Pennsylvania 15301.

### **JURISDICTION AND VENUE**

6. This action is brought pursuant to 28 U.S.C. §1332, as the Plaintiff and Defendants are citizens of different states and the amount in controversy exceeds \$75,000.00.

7. Venue is proper in this District pursuant to 28 U.S.C. §1391(b)(2) because the events and omissions giving rise to the matters in controversy occurred within the District.

### **FACTS**

8. The Plaintiff’s claims arise from the failure of the Defendants to properly maintain the premises located at 2200 Tanger Boulevard, Washington, Pennsylvania. As the result of the Defendants’ negligence, the Plaintiff sustained a fall on October 2, 2021 and suffered severe and serious injuries and damages as will be set forth herein.

9. At all times material hereto, the Defendants were in possession and control of the property located at 2200 Tanger Boulevard, Washington, Pennsylvania (hereinafter “the Defendants’ premises”).

10. At all times material hereto, the Plaintiff acted with all due care and regard for her own safety and well-being.

11. The events hereinafter described occurred on or about October 2, 2021 at approximately 5:00 p.m. on the Defendants' premises.

12. At the time and place as aforesaid, the Plaintiff was lawfully upon the premises as a business invitee of the Defendants.

13. Plaintiff was traversing the premises when she encountered an unsafe, dangerous and/or otherwise hazardous condition consisting of an uneven sidewalk or walkway.

14. The Defendants created and/or had actual and/or constructive notice of the aforementioned unsafe, dangerous and/or hazardous conditions prior to the date and time on which the fall that is the subject of this action occurred.

15. As a result of the unsafe, dangerous and/or otherwise hazardous condition, the Plaintiff was caused to fall, sustaining serious injuries and damages as set forth herein.

### **COUNT I**

#### **KIMBERLY D. MOCNIAK V. TANGER FACTORY OUTLETS, INC., TANGER PROPERTIES LIMITED PARTNERSHIP, AND TANGER MANAGEMENT, LLC.**

16. The Plaintiff incorporates by reference thereto Paragraphs No. 1-15 of the within Complaint the same as though set forth herein and at length.

17. The Defendants, Tanger Factory Outlets, Inc., Tanger Properties Limited Partnership, and Tanger Management, LLC, and each of them, were negligent in the following particulars:

- (a) Creating and perpetuating the unsafe, dangerous and/or otherwise hazardous condition consisting of an uneven sidewalk in a pedestrian walkway;

- (b) Failing to remedy the unsafe, dangerous and/or otherwise hazardous condition when the Defendants knew, or should have known of its existence and that it created a serious risk of injury to business invitees walking thereon;
- (c) Failing to exercise reasonable care and inspection of the premises to ensure that employees of the Defendants took proper precautions to repair the uneven sidewalk;
- (d) Failing to properly supervise its agents, servants, and employees working at the subject premises with respect to the repair of the uneven sidewalk;
- (e) Failing to ensure that its agents, servants, and employees were maintaining the safety of the subject premises, and more specifically, were repairing the uneven sidewalk;
- (f) Failing to repair the uneven sidewalk in the location of the Plaintiff's fall;
- (g) Failing to cordon off or otherwise block access to the area where the dangerous condition existed;
- (h) Failing to devise and/or implement proper policies and procedures related to the maintenance and repair of sidewalks and pedestrian walkways on its premises;
- (i) Failing to warn or otherwise notify Plaintiff of the dangerous and/or defective conditions on said property.

18. As the direct and proximate result of the Defendants' negligence, the Plaintiff sustained the following injuries, all of which are or may be severe, serious, and/or permanent in nature:

- (a) Bilateral scaphoid injury;
- (b) Injury to the tendons and ligaments of the right wrist;
- (c) Injury to the tendons and ligaments of the left wrist;
- (d) Cervical spinal radiculopathy;

- (e) Fracture of multiple teeth;
- (f) Aggravation of preexisting cervical disc disease;
- (g) Upper extremity paresthesias;
- (h) Closed head injury;
- (i) Right great toe laceration;
- (j) Lip laceration;
- (k) Severe pain and swelling of the bilateral upper extremities;
- (l) Severe pain of the neck;
- (m) Scarring and disfigurement;
- (n) Bruising and contusions about her body;
- (o) Severe limitations upon her mobility and ambulation; and
- (p) Injury to the nerves and/or nervous system.

19. As a result of her injuries as aforesaid, the Plaintiff has sustained and will continue to sustain the following damages:

- (a) She has endured and will continue to endure great pain, suffering, inconvenience, embarrassment, mental anguish, and emotional and psychological trauma;
- (b) She has been and will be required to expend money for medical treatment and care, multiple surgeries, multiple hospitalization, medical supplies, rehabilitation and therapeutic treatment, medicines, and other attendant services;
- (c) Her general health, strength, and vitality have been impaired;
- (d) She has lost wages and suffered a diminution of her earning capacity;
- (e) She has been scarred and disfigured; and
- (f) She has been, and will in the future be, unable to enjoy various pleasures of life that she previously enjoyed.

WHEREFORE, the Plaintiff, Kimberly D. Mocniak, hereby demands judgment and in her favor against Tanger Factory Outlet Centers, Inc., Tanger Properties Limited Partnership, and Tanger Management, LLC for an amount in excess of seventy-five thousand (\$75,000.00) dollars, exclusive of interest and costs.

Respectfully Submitted,

**PHILLIPS, PHILLIPS & SMITH-DELACH, P.C.**



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Laura D. Phillips, Esquire  
PA I.D. No. 202204

Date: February 25, 2022

William D. Phillips, Esquire  
PA I.D. No. 05484

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